



# राजपत्र, हिमाचल प्रदेश

(असाधारण)

हिमाचल प्रदेश शासन द्वारा प्रकाशित

शिमला, शुक्रवार, 7 दिसम्बर, 1956

## HIMACHAL PRADESH ADMINISTRATION

### LAW DEPARTMENT

### NOTIFICATION

*Simla-4, the 20th October, 1956*

No. LR-62-47/56.- In pursuance of Section 33 A of the Government of Part "C" States Act, 1951, the Lieutenant Governor, Himachal Pradesh, is pleased to order the publication of the following English translation of "Himachal Pradesh Sahkari-Sabha Adhiniyam 1956" (The Himachal Pradesh Co-operative Societies, Act, 1956) as passed by the Himachal Pradesh Vidhan Sabha, and assented to by the President on the 3rd August, 1956.

By order,  
LAKSHMAN DASS,  
Assistant Secretary, (Judicial).

*M. H. T.*  
*K. R. G.*

# HIMACHAL PRADESH CO-OPERATIVE SOCIETIES ACT, 1956

(AUTHORISED TEXT)

AN

ACT

*to consolidate and amend the law relating to Co-operative Societies in  
the Himachal Pradesh*

BE it enacted by the Legislative Assembly of the Himachal Pradesh in the Sixth Year of Republic of India as follows:—

## CHAPTER I

### PRELIMINARY

1. **Short title, extent and commencement.**—(1) This Act may be called the Himachal Pradesh Co-operative Societies Act, 1956.

(2) It extends to the whole of the Himachal Pradesh.

(3) It shall come into force on such date as the State Government may, by notification in the official gazette, appoint in this behalf.

2. **Definitions.**—In this Act, unless there is anything repugnant in the subject or context,—

- (1) 'co-operative society with unlimited liability' means a co-operative society having, subject to its by-laws, an unlimited liability of its members to contribute jointly or severally any deficiency in the assets of the society on liquidation;
- (2) 'by-law' means a by-law registered or deemed to have been registered under this Act, and includes a registered amendment of the by-law;
- (3) 'farming society' means a society formed with the object of promoting development of land and better methods of cultivation;

- (4) 'Director of Agriculture' means the officer appointed for the time being to be the Director of Agriculture, and includes any officer appointed by the State Government to perform the duties of the Director of Agriculture under this Act;
- (5) 'central society' is a society of which at least one member is a co-operative society;
- (6) 'rules' mean rules made or deemed to be made under this Act;
- (7) 'trustee' means the person appointed to be a trustee under sub-section (1) of section 58.
- (8) 'officer' includes a president, vice-president, chairman, vice-chairman, secretary, assistant secretary, manager, treasurer, member of a managing committee, auditor elected from among the members and any other person empowered under the rules or by-laws to give directions in regard to the business of a co-operative society;
- (9) 'board' means the board constituted under sub-section (3) of section 82;
- (10) 'Registrar' means a person appointed to perform the duties of a Registrar Co-operative Societies under this Act, and includes a Joint Registrar, a Deputy Registrar, Assistant Registrar and any other person appointed to assist the Registrar on whom all or any of the powers or duties of the Registrar have been or has been conferred or imposed under this Act;
- (11) 'official gazette' means the gazette of the Himachal Pradesh;
- (12) 'State Government' means the Lieutenant Governor of Himachal Pradesh;
- (13) 'auditor' means a person authorized under section 71 by general or special order to audit the accounts of a co-operative society;
- (14) 'liquidator' means a person appointed under section 104 to wind up the affairs of a co-operative society;
- (15) 'financing bank' means a co-operative society the objects of which include the creation of funds to be lent to other co-operative societies;

- (16) 'arbitrator' means a person appointed under clause (b) of sub-section (1) of section 88 to decide any dispute referred to him;
- (17) 'dispute' means any matter capable of being the subject of civil litigation and includes a claim in respect of any sum payable to or by a co-operative society whether such claim be admitted or not;
- (18) 'prescribed' means prescribed by rules made under this Act;
- (19) 'net profits' means profits after deduction of establishment charges, contingent charges, interest payable on loans and deposits, audit fees and such other sums as may be prescribed;
- (20) 'member' includes a person joining in an application for registration of a society and a person admitted to membership after registration in accordance with the rules and by-laws;
- (21) 'society or registered society' means co-operative society registered or deemed to be registered under this Act;
- (22) 'committee' means the committee of management or other directing body to whom the management of the affairs of a society is entrusted, and includes the committee elected at the time of the formation of a society preliminary to registration;
- (23) 'co-operative year' means the year beginning from 1st July to 30th June or as may be prescribed by the Government for keeping the accounts of a co-operative society;
- (24) 'co-operative society' means a society registered or deemed to be registered under this Act;
- (25) 'co-operative society with limited liability' means a co-operative society having the liability of its member limited by its by-laws to the amount, if any, unpaid on the shares respectively held by them or to such amount as they may, respectively thereby undertake to contribute to the assets of the society in the event of its being wound up;
- (26) 'federal society' means a society not less than three-fourths of the members of which are societies;
- (27) 'owner' for the purposes of section 84 includes an owner in severalty, in common or joint and includes a tenant and a mortgagee in possession;

## CHAPTER II

### REGISTRATION

3. **Registrar.**—The State Government may appoint a person to be Registrar of co-operative societies for the State or any portion of it, and may appoint persons to assist such Registrar, and may, by general or special order, confer on any such person all or any of the powers of a Registrar under this Act.

4. **Societies which may be registered.**— (1) Subject to the provisions of this Act and of any rules framed thereunder, a society which has as its objects the promotion of the common interests of its members in accordance with co-operative principles, or a society established with the object of facilitating the operations of such a society, including a society formed by the division of any existing co-operative society or amalgamation of existing co-operative societies, may be registered under this Act with or without limited liability.

(2) The word 'limited' shall be the last word in the name of a society registered under this Act with limited liability.

(3) Subject to the provisions of this Act and of the Rules, a co-operative society may, with the previous approval of the Registrar and by a resolution passed at a general meeting, change its form of liability.

(4) When such a resolution has been passed, the society shall give notice thereof in writing in the prescribed manner to all its members and creditors and, notwithstanding any by-law or contract to the contrary, any member or creditor shall, within six months of the service of the notice upon him, have the option of withdrawing his shares, deposits or loans. Any member or creditor who does not exercise his option within the period aforesaid shall be deemed to have assented to the change.

(5) The change shall not take effect until either—

- (a) all the members and creditors have assented thereto, or
- (b) all claims of members and creditors who exercise the option referred to in sub section (4) have been met in full.

5. **Restrictions on interest of members of Society with limited liability and a share capital.**—Where the liability of the members of a society is limited by shares, no member other than a society shall—

- (a) hold more than such portion of the share capital of the society, subject to a maximum of one fifth as may be prescribed by rules; or

- (b) have or claim any interest in the share of the society exceeding ten thousand rupees or such sum as may be prescribed.

**6. Conditions of membership and registration.**—(1) No society other than a society of which a member is a society, shall be registered under this Act which does not consist of at least 10 members above the age of 18 years and, where the object of the society is the creation of the funds to be lent to its members, unless such persons reside in the same town or village or in the same group of villages.

(2) Every adult person shall be eligible for becoming a member of the co-operative society provided he fulfills the conditions laid down in the Act, rules and by-laws.

(3) No co-operative society shall be registered as a society with unlimited liability if amongst its objects it also includes any object other than the advancement of loans to its members.

**7. Power of Registrar to decide certain questions**—When any question arises whether for the purposes of the formation, or registration or continuance or business of a society, or the admission of a person as a member of a society under this Act, or whether a person is a resident in a town or village or a group of villages or whether two or more villages shall be considered to form a group of villages or whether any person is a member of a society, the question shall be decided by the Registrar, whose decision shall be final.

**8. Application for registration.**—(1) For the purposes of registration an application shall be made to the Registrar.

(2) The application shall be signed—

- (a) in the case of a society of which no member is a society, by at least 10 persons qualified in accordance with the requirements of section 6; and
- (b) in the case of a society of which a member is a society, by a duly authorised person on behalf of every such society and where all the members of the society are not societies, by ten other members or, when there are less than ten other members, by all of them.

(3) The application shall be accompanied by two copies of the proposed by-laws of the society, and the persons by whom or on whose behalf such application is made shall furnish such information in regard to society as the Registrar may require.

**9. Power to exempt co-operative societies from the provisions of**

the Act.—(1) The State Government may, by rules—

- (a) exempt any society or class of societies from the application of any of the provisions of this Act or of any rules made thereunder ; or
- (b) direct that any of such provisions shall apply to such society or class of societies to such extent as may be specified in the rules.

(2) Notwithstanding anything contained in this Act, the State Government may, by special order in each case and subject to such conditions, if any, as it may impose, exempt any society or class of societies from any of the requirements of this Act as to registration.

(3) The powers to make rules conferred by sub-section (1) shall be subject to the conditions that no rule shall be made to the prejudice of a society without giving such society an opportunity to represent its case.

**10. Registration.**—If the Registrar is satisfied that a society has complied with the provisions of this Act and the rules and that its proposed by-laws are not contrary to this Act or to the rules, he may register the society and its by-laws.

**11. Evidence of registration.**—A certificate of registration signed by the Registrar shall be conclusive evidence that the society therein mentioned is duly registered unless it is proved that the registration of the society has been cancelled.

**12. Amendment of the by-laws of the society.**—(1) No amendment of the by-laws of a society shall be valid until approved by the resolution of a general meeting and registered under this Act for which purpose two copies of the amendment shall be forwarded to the Registrar as prescribed.

(2) If the Registrar is satisfied that any amendment of the by-laws is not contrary to this Act or to the rules, he may register the amendment.

(3) When the Registrar registers an amendment of the by-laws of a society, he shall issue to the society a copy of the amendment certified by him, which shall be conclusive evidence that the same is duly registered.



**13. Change of name and its effect.**—A society may, by a resolution of a general meeting and with the approval of the Registrar, change its name; but such change shall not effect any right or obligation of the society, or of any of its members, or past or deceased members, and any legal proceedings pending may be continued by or against the society under its new name.

**14. Amalgamation and transfer of societies.**—(1) Any two or more societies may, with the approval of the Registrar by resolution passed by a three-fourths majority of the members present at a special general meeting of each such society held for the purpose, amalgamate as a single society; provided that each member has had clear fifteen days written notice of the resolution and the date of the meeting. Such an amalgamation may be effected without a dissolution, or a division of the funds, of the amalgamating societies.

(2) The resolution of the societies concerned shall on such amalgamation be a sufficient conveyance to vest the assets and liabilities of the amalgamating societies in the amalgamated society.

(3) Any society may, by a resolution in accordance with the procedure laid down in sub-section (1) to (2) transfer its assets and liabilities to any other societies which is prepared to accept them:

Provided that when any such amalgamation or transfer of assets and liabilities involves the transfer of its liabilities by any society to any other society it will not be made without giving three months notice to the creditors of both or all such societies:

Provided further that if a creditor or creditors of any of the society or societies concerned object to such amalgamation or transfer of assets and liabilities and gives or give written notice to that effect to the society or societies concerned one month before the date fixed for such amalgamation or transfer, the amalgamation or transfer shall not be made until the dues of such creditors or creditor have been satisfied.

**15. Division of Societies.**—(1) Any society may, with the approval of the Registrar, by a resolution passed by a three-fourths majority of the members present at a special general meeting of the society held for the purpose, resolve to divide itself into two or more societies, provided that each member has had fifteen clear days written notice of the resolution and the date of the meeting. The resolution (hereinafter in this section referred to as a preliminary resolution) shall contain proposals for the division of the assets and liabilities of the society



among the new societies in which it is proposed to divide it and may prescribe the area of operation of, and specify the members who will constitute, each of the new societies.

(2) A copy of the preliminary resolution shall be sent to all the members and creditors of the society. A notice of the resolution shall also be given in the prescribed manner to all other persons whose interests will be affected by the division of the society.

(3) Any member of the society may, notwithstanding any by-law to the contrary, by notice given to the society within a period of three months from the receipt of the resolution, intimate his intention not to become a member of any of the new societies.

(4) Any creditor of the society may, notwithstanding any agreement to the contrary, by notice given to the society within the said period, intimate his intention to demand a return of the amount due to him.

(5) Any other person whose interests will be affected by the division may by notice given to the society object to the division unless his claim is satisfied.

(6) After the expiry of three months from the date of despatch or delivery of a copy of the preliminary resolution to all the members and creditors of the society and of the notice to other persons given under sub-section (2), another special general meeting of the society, of which atleast fifteen clear days notice shall be given to its members, shall be convened for considering the preliminary resolution. If at such meeting, the preliminary resolution is confirmed by a resolution passed by a majority of not less than two-thirds of the members present, either without changes or with such changes as in the opinion of the Registrar are not material, he may, subject to the provision of sub-section (9) and section 10, register the new societies and the by-laws thereof. On such registration, the registration of the old society shall be deemed to have been cancelled and the society shall be deemed to be dissolved from the date of such cancellation.

(7) The opinion of the Registrar as to whether the changes made in the preliminary resolution are or are not material shall be final and no appeal shall lie therefrom.

(8) At the special general meeting referred to in sub-section (6) provision shall be made by another resolution for—

(i) repayment of the share capital of all the members who have given notice under sub-section (3);

- (ii) satisfaction of the claims of all the creditors who have given notice under sub-section (4);
- (iii) satisfaction of the claims of such of the other persons who have given notice under sub-section (5) as the Registrar decides or securing their claims in such manner as the Registrar directs:

Provided that no member or creditor or other person shall be entitled to such repayment or satisfaction until the preliminary resolution is confirmed as provided in sub-section (6).

(9) If within such time as the Registrar considers reasonable, the share capital of the members referred to in sub-section (8) is not repaid or the claims of the creditors referred to in that sub-section are not satisfied, or the claims of the other persons are not satisfied or secured as provided in clause (iii) of sub-section (8), the Registrar may refuse to register the new society.

(10) Notwithstanding anything contained in the Transfer of Property Act, 1882 or the Indian Registration Act, 1908, the registration of the new societies shall be a sufficient conveyance to vest the assets and liabilities of the original society in the new societies in the manner specified in the preliminary resolution as confirmed under sub-section (6).

### CHAPTER III

#### RIGHTS AND LIABILITIES

16. **Members not to exercise rights till due payment made.**—No person shall exercise the rights of a member of a society unless and until he has made such payment to the society in respect of membership, or acquired such interest in the society as may be prescribed by the rules or the by-laws of such society.

17. **Vote of members.**—(1) No member of any society shall have more than one vote in its affairs, provided that in the case of an equality of votes the chairman shall have a casting vote.

(2) Where a share of a society is held jointly by more than one person, only the person whose name stands first in the share certificate shall have the right to vote.

(3) A society, which has invested any part of its funds in the shares of another society, may appoint such number of its members, as may be prescribed, to vote in the affairs of such other society.

**18. Restrictions on transfer of share or interest.**—(1) The transfer or charge of the share or interest of a member in the capital of a society shall be subject to such conditions as to maximum holding as may be prescribed by this Act or by the rules.

(2) A member shall not transfer any share held by him or his interest in the capital or property of any society or any part thereof unless:—

- (a) he has held such share or interest for not less than one year;
- (b) the transfer or charge is made to the society or to a member of the society or to a person whose application for membership has been accepted by the society; and
- (c) the committee has approved such transfer.

**19. Liability of members.**—The members of a society shall, upon the winding up of the society be jointly and severally liable to contribute towards any deficiency in the assets of the society:—

- (a) in the case of a society with unlimited liability without limit; and
- (b) in the case of a society with limited liability, subject to such limitation of amount as may be provided in the by-laws.

**20. Liability of past members.**—A past member shall be liable for the debts of a society as they existed at the time when he ceased to be a member, if the order of winding up under section 103 takes effect within two years from the date of his ceasing to be a member.

**21. Liability of estate of deceased member.**—The estate of a deceased member shall be liable for the debts of a society as they existed at the time of his death, if the order of winding up under section 103 takes effect within two years from the date of his death.

**22. Members to furnish information as to their financial position and alienation of their immovable property.**—(1) A full, true and accurate statement of his assets and liabilities shall be furnished—

- (a) by an applicant for membership of a society with unlimited liability together with his application;
- (b) by a member of a society with unlimited liability when required to do so by the Registrar or any person authorised by him by a general or special order or by the financing bank; and

- (c) by a member of any other society, together with any application for a loan or for acceptance as a surety.

(2) A member of a society shall, before the completion of each such transaction, furnish to the society of which he is a member full, true and accurate information regarding any sale, mortgage or transfer in any form whatsoever of his immovable property or any portion or share thereof and regarding any debt proposed to be incurred on the security of such property.

## CHAPTER IV

### STATUS AND MANAGEMENT OF Co-OPERATIVE SOCIETIES

**23. Societies to be bodies corporate.**—The registration of a society shall render it a body corporate by the name under which it is registered, with perpetual succession and a common seal, and with power to hold property, to enter into contracts, to institute and defend suits and other legal proceedings and do all things necessary for the purpose of its constitution.

**24. Final authority of a Co-operative Society.**—(1) The final authority of every co-operative society shall vest in the general body of members in general meeting :

Provided that, in such circumstances as may be prescribed, the final authority may vest in the delegates of such members, elected in the prescribed manner and assembled in general meeting.

(2) The general meeting shall be summoned and shall exercise its authority in such manner as may be prescribed.

**25. Annual general meeting.**—(1) A general meeting of every society shall be held once at least in every co-operative year for the purpose of—

- (a) electing members of the managing committee and such other officers as may be provided in the by-laws;
- (b) considering the audit-report referred to in section 74; and
- (c) considering any other matter which may be brought forward in accordance with the by-laws.

(2) Such meetings shall be held not more than 15 months after the date of the last preceding meeting held under sub-section (1) and unless the Registrar on special grounds extends the period, within three months of the date prescribed for the receipt by the society of the audit report referred to in section 74:

Provided that the Registrar may, for reasons to be recorded in writing, permit such meeting to be held even after the expiry of the period prescribed in sub-section (1) and (2) above.

**26. Special general meeting.**—(1) A special general meeting may be called at any time by a majority of the members of the managing committee and shall be called —

(a) on the requisition in writing of one-fourth of the members of any co-operative society having not more than five hundred members, or of one-fifth of the members of any other society; or

(b) at the instance of the Registrar :

Provided that, in the case of any society having more than two thousand five hundred members, a requisition under clause (a) may be presented by delegates elected in the prescribed manner.

(2) The Registrar, or any person authorised by him in this behalf by special order in writing, may call a general meeting of a society at any time, and shall call such a meeting upon failure of the society to call a meeting on a requisition by the members or at the instance of the Registrar under sub-section (1).

(3) Notwithstanding any rule or by-law prescribing the period of notice for, and the method of summoning a general meeting, the Registrar, in the case of a meeting called at his instance under sub-section (1), or the person in the case of a meeting called under sub-section (2), may specify the time and place for the meeting, the manner in which it shall be summoned and the matter which shall be discussed thereat.

**27. Managing Committee.**—The management of every co-operative society shall vest in a managing committee constituted in accordance with the rules and by-laws, which shall exercise such powers and perform such duties as may be conferred or imposed respectively by this Act, the rules and the by-laws.

**28. Powers to depute Government servant to manage affairs of a co-operative society.**—The State Government may, on the application of a co-operative society and on such conditions as may be prescribed, depute a government servant to the service of the society for the purpose of managing its affairs and a government servant so deputed shall exercise such powers and perform such duties as may be prescribed.

**29. Dissolution and reconstitution of managing committee.--(1)** If the Registrar, after an inspection under section 76 or on an inquiry under section 77, is satisfied for reasons to be recorded by him in writing that the managing committee of a co-operative society is mismanaging its affairs, he may, under clause (b) of sub-section (1) of section 26, direct that, within such time as he may determine, a special general meeting of a society shall be held to dissolve and reconstitute the managing committee.

(2) In any direction made under sub-section (1), the Registrar may, for reasons to be recorded by him in writing, order that all or any of the members of the outgoing committee shall, for such period not exceeding three years as he may determine, be disqualified for an election or appointment as an officer of the society.

(3) If the Registrar is satisfied that any delay in changing or suspending a managing committee under the last foregoing sub-section will cause irreparable loss to the society then the Registrar may order the suspension of the Board of Directors or the managing committee in part or whole forthwith and appoint an Administrator on such conditions as may be prescribed by him for managing the affairs of the said co-operative society for such period as may be necessary, but such period will not exceed the period as provided in sub-section (1) of section 30 including the proviso.

**30. Dissolution of managing committee and appointment of person to manage affairs of Co-operative Society.--(1)** If the managing committee is not dissolved and reconstituted within the time determined and in such manner as may be directed, by the Registrar under section 29, he may by order dissolve the managing committee, the members of which shall forthwith vacate their office and the Registrar shall thereupon appoint one or more suitable persons, on such conditions as may be prescribed to manage the affairs of the co-operative society for such period not exceeding one year, and to arrange for the constitution of a new managing committee by such date, as the Registrar may determine :

Provided that the State Government may extend the period of one year for such further period not exceeding two years as it may think fit.

(2) An order under sub-section (1) in writing, shall set forth the reasons for which it is passed, and shall be passed only after an opportunity has been given to the managing committee to state its objections thereto.

**31. Tenure of office of person appointed under section 30.--** A person appointed under section 29 or section 30 shall hold office until the managing committee is reconstituted or his appointment is cancelled by the Registrar.

**32. Management of co-operative society on dissolution of its committee.**—During the tenure of office of a person appointed under section 29 or section 30—

- (a) all properties of the co-operative society shall vest in the Registrar;
- (b) subject to the control of the Registrar, and notwithstanding the preferring of any appeal under section 113 such person shall exercise all the powers and perform all the duties which may, under this Act, the rules and the by-laws, be exercised or performed by the managing committee or any officer of the society.

## CHAPTER V

### DUTIES AND OBLIGATIONS OF CO-OPERATIVE SOCIETIES

**33. Address of Societies.**—Every society shall have an address registered in accordance with the rules, to which all notices and communication may be sent and shall send notice in writing to the Registrar of any change in the said address within 30 days of such change.

**34. Copy of Act, rules and by-laws to be open to inspection.**—Every society shall keep open to inspection at all reasonable times at the registered address of the society—

- (a) a copy of this Act,
- (b) a copy of the rules governing such society,
- (c) a copy of the by-laws of such society, and
- (d) a register of its members.

**35. Publication of annual balance sheet.**—The balance sheet authenticated by the auditor shall be annually published by every co-operative society in the prescribed manner.

**36. Liability to furnish information.**—Every officer and every member of a co-operative society shall furnish such information in regard to the transactions or working of the society as may be required of him by the Registrar or an auditor, arbitrator, liquidator or any person conducting an inspection or inquiry.



## CHAPTER VI

## PROPERTIES AND FUNDS OF CO-OPERATIVE SOCIETIES

37. Investment of funds.—(1) A registered society may invest or deposit its funds—

- (a) in the Post Office Savings Bank, or
- (b) in any of the securities specified in section 20 of the Indian Trusts Act, 1882, or
- (c) in the shares or on the security of any other registered society, or
- (d) with any bank or person carrying on the business of banking approved for this purpose by the Registrar, or
- (e) in any other mode permitted by the rules.

(2) Any investments or deposits made before the commencement of this Act which would have been valid if this Act had been in force are hereby ratified and confirmed.

38. Distribution of profits.—(1) Save as may be prescribed no distribution of profits shall be made in the case of a society with unlimited liability, and save as provided in this section, no part of the funds of a society shall be divided by way of dividend or bonus or otherwise among its members.

(2) No dividend or bonus shall be paid—

- (a) otherwise than out of profits certified by the auditor to have been actually realised; or
- (b) without the previous sanction of the Registrar, if the auditor reports that any asset is bad or doubtful and also recommends that such sanction is necessary:

Provided that the auditor shall not so recommend if such asset is adequately covered.

(3) Subject to the provisions of sub-section (2) after the proportion required by sub-section (2) of section 39 has been carried to the reserve fund from the net profits of any year, the balance of such profits, together with undistributed profits of past years, if any, may, to such extent and under such conditions as may be prescribed, be distributed as dividend among the members or paid as bonus or remuneration to a member or employee for any specific service rendered to the society.

(4) No contribution under section 40 shall be paid otherwise than out of profits actually realized.

**39. Reserve Fund.**—(1) Every society shall maintain a reserve fund in respect of the profits, if any, derivable from its transactions.

(2) Of the net profits of a society in each year there shall be carried to the reserve fund not less than twenty-five per centum or such higher proportion as may be prescribed for such society or class of societies.

(3) Save to the extent that, and in such manner as may be prescribed, no part of its reserve fund shall be used in the business of a society.

(4) Subject to the rules, any portion of the reserve fund not used in the business of a society, shall be invested or deposited—

(a) in the post office Savings Bank; or

(b) in any of the securities specified in section 20 of the Indian Trusts Act, 1882, other than those specified in clause (e) of that section; or

(c) in any other bank approved by the Registrar.

**40. Contribution to charitable purposes.**—After this has been carried out to the reserve fund the proportion of the net profits of any year required by sub-section (2) of section 39 a society may in accordance with the rules contribute not more than ten per centum of such balance for any charitable purpose as defined in section 2 of the Charitable Endowments Act, 1890.

**41. Provident Fund.**—(1) A society may establish a provident fund for its members, officers or servants, as the case may be, and, after there has been carried to the reserve fund the proportion of net profits in any year required by sub-section (2) of section 39 and after there has been paid the contribution required by section 40, may make such contribution to the provident fund as may be provided for in the rules or by-laws.

(2) Such provident fund shall not be used in the business of the society, but shall be invested or deposited in one or more of the ways specified in sub-section (4) of section 39.

**42. Restriction on loans.**—(1) Registered society shall not make a loan to any person other than a member:

Provided that with the general or special sanction of the Registrar, a registered society may make loans to another registered

society, or to a non-member, subject to such conditions as may be prescribed.

(2) Save with the sanction of the Registrar, a society with unlimited liability shall not lend money on the security of movable property.

(3) The State Government may, by general or special order, prohibit or restrict the lending of money on mortgage of immovable property by any registered society or class of registered societies.

**43. Restrictions on borrowing.**—A registered society shall receive deposits and loans from persons who are not members only to such extent and under such conditions as may be prescribed by the rules or by-laws.

**44. Restrictions on other transactions with non-members.**—Save as provided in sections 42 and 43, the transactions of a registered society with persons other than members shall be subject to such prohibitions and restrictions, if any, as the State Government may, by rules, prescribe.

**45. Contribution for any co-operative purpose.**—Any society may, and if so directed by the Registrar, after one-fourth of the net profits in any year has been carried to the reserve fund, shall contribute an amount not exceeding five per centum of the remaining net profits for such co-operative purpose as may be prescribed.

**46. Contribution to co-operative educational funds.**—Every society which pays its dividend to its members at a rate of four percent or more shall contribute to such co-operative educational fund and at such rate, as may be prescribed.

## CHAPTER VII

### PRIVILEGES AND POWERS OF CO-OPERATIVE SOCIETIES

**47. Co-operative societies power to call for notice of rent suit.** A society which includes amongst its objects the advance of loans to its members, and the financing banks, if any, of which such society is a member, may, by a notice served in the prescribed manner upon the landlord of any member of such society, require the landlord to furnish to such society or the financing bank or both notice of any rent suit instituted by him against such member.

**48. Charge and set off in respect of shares of members.**—A registered society shall have a charge upon the share or interest in

the capital and on the deposits of a member, past member or deceased member and upon any dividend, bonus or profits payable to a member or past member or deceased member in respect of any debt due from such member or past member or deceased member to the society, and may set off any sum credited or payable to a member or past member or deceased member in or towards payment of any such debt.

**49. Shares or interest not liable to attachment.**—Subject to the provisions of section 48, the share or interest of a member in the capital of a registered society shall not be liable to attachment or sale under any decree or order of a Court in respect of any debt or liability incurred by such member, nor shall a receiver under the Provincial Insolvency Act, 1920, be entitled to or have any claim on such share or interest.

**50. Register of members.**—Any register or list of members or shares kept by any registered society shall be *prima facie* evidence of any of the following particulars entered therein:—

(a) the date on which the name of any person was entered in such register or list as a member,

(b) the date on which any such person ceased to be a member.

**51. Proof of entries in society's books.**—A copy of any entry in a book of a registered society regularly kept in the course of business, shall, if certified in such manner as may be prescribed by the rules, be received, in any suit or legal proceedings, as *prima facie* evidence of the existence of such entry, and shall be admitted as evidence of the matters, transactions and accounts therein recorded in every case where, and to the same extent as, the original entry itself is admissible.

**52. Transfer of interest on death of member.**—On the death of a member, a registered society may transfer the share or interest of the deceased member to the person nominated in accordance with the rules made in this behalf, or, if there is no person so nominated, to such person as may appear to the committee to be the heir or legal representative of the deceased member, or pay to such nominee, heir or legal representative, as the case may be, a sum representing the value of such member's share or interest as ascertained in accordance with the rules or by-laws :

Provided that—

(i) in the case of a society with unlimited liability, any nominee, heir or legal representative, as the case may be, may require payment by the society of the value of the share or interest of the deceased member ascertained as aforesaid ;

(ii) in the case of a society with limited liability, the society shall transfer the share or interest of the deceased member to such nominee, heir or legal representative, as the case may be, being qualified in accordance with the rules and by-laws for membership of the society, or on his application within one month of the death of the deceased member to any person specified in the application who is so qualified.

(2) A registered society may pay all other moneys due to the deceased member from the society to such nominee, heir or legal representative as the case may be.

(3) All transfers and payments made by a registered society in accordance with the provisions of this section shall be valid and effectual against any demand made upon the society by any other person.

**53. Exemption from compulsory registration of instruments relating to shares and debentures of registered society.**—Nothing in section 17, sub-section (1) clause (b) and (c) of the Indian Registration Act, 1908, shall apply to—

(1) any instrument relating to shares in a registered society, notwithstanding that the assets of such society consist in whole or in part of immovable property; or

(2) any debenture issued by any such society and not creating, declaring, assigning, limiting, or extinguishing any right, title or interest to or in immovable property except in so far as it entitles the holder to the security afforded by a registered instrument whereby the society has mortgaged, conveyed or otherwise transferred the whole or part of its immovable property or any interest therein to trustees upon trust for the benefit of the holders of such debentures; or

any endorsement upon or transfer of any debenture issued by any such society.

**54. Deduction of dues to co-operative societies from salaries of members**—if a member of a society, who is in the employment of the Union of India or of any local authority or of any other person, takes a loan from a society in terms of a written contract to repay such loan by instalments, and authorises the society in writing to recover such instalments by deduction from his salary, the person who disburses any amount payable to such member as salary in respect of such employment shall on demand from the society deduct the amount of such instalment from the amount disbursed to such member as salary and shall forthwith remit to the society the amount so deducted.

**55. Power of State Government to give financial assistance.**—Notwithstanding anything contained in any other law for the time being in force, the State Government may, subject to the rules, grant loans to, take shares in, or give financial assistance in any other form to any society.

**56. Charge on immovable property of members borrowing from certain societies.**—Notwithstanding anything contained in this Act or in any other law for the time being in force—

- (i) any person who makes an application to a society of which he is a member for a loan shall, if he owns any land, make a declaration in the form prescribed by the rules. Such declaration shall state that the applicant thereby creates a charge on the land and crops owned by him and specified therein for the payment of the amount of the loan which the society may make to the member in pursuance of the application and for all future advances, if any, required by him which the society may make to him, as such member subject to such maximum as may be determined by the society together with interest on such amount of the loan and advances;
- (ii) any person who has borrowed a loan from a society of which he is a member before the date of the coming into force of the Himachal Pradesh Co-operative Societies Act, 1955, and who owns any land or crops shall, as soon as possible, make a declaration in the form and to the effect referred to in clause (i) and no such person shall, unless and until he has made such declaration, be entitled to exercise any right as a member of the society;
- (iii) a declaration made under clauses (i) and (ii) may be varied at any time by a member with the consent of the society in favour of which such charge is created;
- (iv) no member shall alienate the whole or any part of the land or crops specified in the declaration made under clause (i) or (ii) until the whole amount borrowed by the member together with interest thereon is paid in full:

Provided that standing crops on any such land may be alienated with the previous permission of the society;

- (v) any alienation made in contravention of the provision of clause (iv) shall be void;
- (vi) subject to the prior claims of the Government in respect of land revenue or any money recoverable as land revenue

there shall be a first charge in favour of the society on the land specified in the declaration made under clause (i) or (ii) for and to the extent of the dues owned by him on account of the loan;

- (vii) the record of rights shall include the particulars of every charge on land created under a declaration under clause (i) or (ii);
- (viii) every member of the society who borrows a loan from the society shall execute a declaration, in the form prescribed, to the effect that the society shall have first charge on crops raised by him in the land specified in the declaration until the loan is repaid.

**57. Power of State Government to guarantee principal and interest of debentures.**—(1) In the case of any debentures or of any class or series or issue of debentures issued under this Act, the State Government shall—

- (a) guarantee the principal thereof and the interest thereon, subject to such maximum amount of principal or such rate of interest and to such other conditions as may be prescribed; and
- (b) notwithstanding anything contained in the Indian Trusts Act, 1882, declare that such debentures shall be deemed to be included among the securities enumerated in section 20 of the said Act.

(2) Such debentures shall not be issued save with the express authority of the State Government.

**58. Issue of guaranteed debentures.**—(1) When a society is authorised under the provisions of sub-section (2) of section 57 to receive loans by the issue of debentures, the principal of and interest on which is so guaranteed, the State Government shall appoint the Registrar or some other person to be the trustee for the purpose of securing the fulfilment of the obligations of the society to the holders of the debentures.

(2) With the previous sanction of the trustee and subject to such conditions as he may impose, a society may issue debentures of one or more denominations for such period as it may deem expedient on the security of the assets of the society, including any mortgages which it holds by acceptance, assignment or transfer.

(3) Such debentures may be issued subject to either or both



of the following conditions, namely—

- (a) fixing a period, not exceeding thirty years from the date of issue, during which they shall be irredeemable;
- (b) reserving to the society the right to call in at any time any previously issued debentures in advance of the date fixed for redemption, after giving to the debenture-holder concerned not less than three months' notice in writing, and may be subject also to any other conditions imposed by the trustee.

(4) The total amount payable in respect of debentures issued by a society (including any debentures issued before the commencement of this Act) and outstanding at any time shall not exceed the total amount due on the mortgages, the amount paid thereunder and remaining in the hands of the society or of the trustee at such time and the value of all other assets of the society held by transfer or assignment subsisting at that time.

(5) Where a society has called in any debenture in advance of the date fixed for redemption, the society shall, subject to the previous permission of the trustee, have the power to cancel the debenture and issue any new debenture in place of the debenture paid off or otherwise satisfied or extinguished, or to re-issue the debenture either by re-issuing the same debenture or by issuing another debenture in its place; and by virtue of such re-issue the person entitled to such debenture shall have, and shall be deemed to have always had, the same rights and priorities, if any, as if the debenture had not been previously issued.

**59. Trustee to be a corporation sole.**—The trustee appointed under section 58 shall be a corporation sole by the name of the trustee for the debentures in respect of which he is appointed, and as such shall have perpetual succession and a common seal and in his corporate name shall sue and be sued.

**60. Powers and functions of trustees.**—(1) The powers and functions of the trustee shall be governed by the provisions of this Act and the instrument of trust executed between the society and the trustee.

(2) The form of such instrument, and any modification which the parties thereto may mutually agree to make in any of its terms after its execution, shall be subject to the previous approval of the State Government.

**61. Debenture holders' charge on assets.**—Upon the issue of debenture under the provisions of sub-section (2) of section 58, the

assets of the society, including any mortgages which it holds by acceptance, assignment or transfer, shall vest in the trustee and the holders of debentures shall have a floating charge on all such assets, including the amounts paid under such mortgages and remaining in the hands of the trustee or the society, and on the properties of the society.

**62. Power of the Co-operative Society to call for a statement of claims.—**

(1) When a member of society which includes among its objects the advance of loans to its members applies for a loan or when a person applies for membership of such a society, the society may in the prescribed manner serve a notice on any creditor named in the application or ascertained after subsequent inquiry, and may also publish a general notice on all creditors, requiring him or them, in the prescribed form and within the time specified in the notice, to furnish a written statement of his or their claim.

(2) When a member of a society which includes among its objects the advance of loans to its members intends to apply for a loan from any person other than the society such member shall send to the society a notice in writing stating—

- (a) his intention to apply for such loan ;
- (b) the amount of the loan for which he intends to apply;  
and
- (c) the object of taking the loan.

**63. Limitation.—**(1) Notwithstanding any of the provisions of the Indian Limitation Act, 1908, the period of limitation for the institution of a suit to recover any sum, including interest thereon due to a society by a member thereof shall be computed from the date on which such member dies or ceases to be a member of the society.

(2) The provisions of Indian Limitation Act, 1908, shall not apply to proceedings taken under section 87 of this Act.

**64. Levy of water rate on non-members.—**(1) A society, an object of which is the provision of irrigational facilities to the cultivable land of its members, may in the prescribed form apply to the Collector for demarcation of the area irrigable from any source of irrigation.

(2) Such area shall be termed the “irrigable area”.

(3) On receipt of such application, the Collector shall, after giving notice in the prescribed manner, cause to be prepared, in the

prescribed form, by an officer subordinate to him, a map of the irrigable area and a statement of the cultivable land included therein; and such map and statement shall be published in the prescribed manner.

(4) If the land possessed by the members of such society comprises not less than sixty per centum of the cultivable land included in the irrigable area, such society may, subject to rules made in this behalf levy a water rate upon any non-member of the society possessing within such area cultivable land which is benefitted by the irrigational facilities referred to in sub-section (1).

(5) Such water rate shall be recoverable in the manner provided in this Act for the recovery of sum due to the society by the members, past members and deceased members thereof.

**65. Levy of embankment protection rate on non-members.—**(1) A society, an object of which is the provision of embankment protection facilities to the land of its members, may in the prescribed form apply to the Collector for demarcation of the area protected by any embankment.

(2) Such area shall be termed the "protected area".

(3) On receipt of such application, the Collector shall, after giving notice in the prescribed manner, cause to be prepared in the prescribed form, by an officer subordinate to him, a map of the protected area and a statement of the land included therein, and a copy of such map and statement shall be published in the prescribed manner.

(4) If the land possessed by the members of such society comprises not less than sixty per centum of the land included in the protected area, such society may, subject to rules made in this behalf, levy an embankment protection rate upon any non-member of the society possessing land within such area.

(5) Such embankment protection rate shall be recoverable in the manner provided in this Act for the recovery of sums due to the society by the members, past members and deceased members thereof.

**66. Power to exempt from income-tax.—**The Central Government by notification in the Gazette of India, may, in the case of any registered society or class of registered societies, remit the income-tax payable in respect of the profit of the society, or of the dividends or other payments received by the members of the society on account of profits.

**67. Remission of certain duties, fees, etc.—**(1) The State Government may, by general or special order in the case of any society or class of societies, remit any tax, cess or fee payable under any law for the time being in force or the rules framed thereunder in respect of which the State Government is competent to remit such tax, cess or fee.

(2) In respect of any society or class of societies, the State Government may, by notification in the Gazette remit —

- (a) the stamp duty in respect of any instrument executed by, or on behalf of, or in favour of a society or by an officer or on behalf of a member thereof and relating to the business of such society in cases where, but for such remission, the executor would be liable to pay the stamp duty chargeable under any law for the time being in force in respect of such instrument; and
- (b) any fee payable by a society under any law for the time being in force for the registration of documents.

**68. Disposal of share or interest of expelled, resigned or insane member.—**When a member of a society is expelled or resigns in accordance with the rules or the by-laws, or when a member becomes insane—

- (a) his share or interest shall be transferred to another person qualified to be the transferee in accordance with the provisions of section 18, and the value thereof determined in accordance with the rules shall be paid to such member or, if he is insane, to any person appointed to manage his properties under the Indian Lunacy Act, 1912; or
- (b) in the case of a society, with unlimited liability, if the by-laws so provide, the value of his share or interest determined in accordance with the rules shall be paid to him or, if he is insane, to any person appointed to manage his properties under the Indian Lunacy Act, 1912.

**69. Disposal of moneys due to a deceased, expelled, resigned or insane member.—**All sums calculated in accordance with the rules to be due from a society to a member, other than payments in respect of the share or interest of such member to the society, shall, subject to the provisions of section 48, be paid—

- (a) in the case of a deceased member, to the person to whom

the share and interest are transferred or their value is paid in accordance with the provisions of section 52;

- (b) in the case of a member who has been expelled or has resigned from a society, to him; and
- (c) in the case of a member who has become insane, to any person appointed to manage his properties under the Indian Lunacy Act, 1912.

**70. Debts due to co-operative societies to be a first charge.**—Notwithstanding anything contained in sections 60 and 61 of the Code of Civil Procedure, 1908, but subject to any claim of the State Government in respect of land revenue, or any sum recoverable as land revenue or as a public demand, or of a landlord in respect of rent or any sum recoverable as rent, any debt or outstanding demand due to a co-operative society by any member, past member or the estate of any deceased member shall be a first charge—

- (a) if such debt or demand is due in respect of the supply of, or any loan to provide the means of paying for seed, manure, labour subsistence, fodder for cattle or any other thing incidental to the conduct of agricultural operations, upon the crops or agricultural produce of such member, past member or belonging to the estate of such deceased member, at any time within two years from the date on which the last instalment of such supply or loan became repayable;
- (b) if such debt or demand is due in respect of the supply of, or of any loan to provide the means of paying for irrigational facilities, upon the crops or agricultural produce of such member, past member or belonging to the estate of such deceased member, at any time within two years from the date on which the last instalment of such supply or loan became repayable, or upon the crops or agricultural produce of the land so provided with irrigation facilities;
- (c) if such debt or demand is due in respect of the supply of, or any loan for the purchase of cattle, agricultural implements or warehouses for the storage of agricultural produce in the manner and to the extent aforesaid upon the crops or agricultural produce of such member, past member or belonging to the estate of such deceased member and also upon the cattle, agricultural implements or warehouses thus supplied or purchased wholly or in part from any such loan;

- (d) if such debt or demand is due in respect of the supply of, or any loan for the purchase of raw materials, industrial implements, machinery, workshops, warehouse or business premises, upon the raw material or other things supplied or purchased by such member, past member or deceased member wholly or in part from any such loan and also upon any articles manufactured from raw materials or with implements or machinery so supplied or purchased wholly or in part from any such loan ;
- (e) if such debt or demand is due in respect of any loan for the purchase or redemption of land, upon the land purchased or redeemed by such member, past member or deceased member from any such loan ; and
- (f) if such debt or demand is due in respect of any loan for the purchase or construction of any house or building or any portion thereof or in respect of the supply of materials for such construction, upon the house or building so purchased or constructed by such member, past member or deceased member from any such loan or material.

## CHAPTER VIII

### INSPECTION AND AUDIT

**71. Registrar to be responsible for audit.**—(1) The accounts of every co-operative society shall, at least once in each year and by such date as may be prescribed, be audited by the Registrar, or by an auditor authorised by him, in this behalf by general or special order in writing.

(2) In respect of the audit of accounts the co-operative society shall pay such audit fee, if any, as may be prescribed.

**72. Power of the Registrar to have the accounts written up.** - If at the time of audit the accounts of a co-operative society are not complete, the Registrar or, the auditor may cause the accounts to be written up at the expense of the society.

**73. Nature of audit.**—(1) The audit under section 71 shall include—

- (a) a verification of the cash balance and securities ;
- (b) a verification of the balance at the credit of the depositors and creditors and of the amounts due from the debtors of the society ;
- (c) an examination of the overdue debts, if any ;
- (d) a valuation of the assets and liabilities of the society ;

- (e) an examination of the transactions including the monetary transactions of the society ;
- (f) an examination of the statement of accounts to be prepared by the managing committee in such form as may be prescribed ;
- (g) a certification of the profits realised ; and
- (h) any other matter that may be prescribed.

(2) The statement of accounts thus audited, together with the modification, if any, made therein by the Registrar or any person authorized by him shall be final and binding on the co-operative society.

**74. Auditor's report.**—The auditor shall, by such date as may be prescribed, submit to the co operative society and to the Registrar, together with the statement of accounts audited, an audit report including a statement of—

- (a) every transaction which appears to him to be contrary to law or to the rules or by-laws ;
- (b) every sum which ought to have been but has not been brought into account ;
- (c) the amount of any deficiency or loss which appears to have resulted from any negligence or misconduct or to require further investigation ;
- (d) any money or property belonging to the society which appears to have been misappropriated or fraudulently retained by any person ;
- (e) any of the assets which appears to him to be bad or doubtful ; and
- (f) any other matter prescribed.

**75. Rectification of defects.**—A co-operative society shall be afforded by the Registrar an opportunity of explaining any defects or irregularities pointed out by the auditor, and thereafter the society shall, within such time and in such manner as the Registrar may direct remedy such defects and irregularities and report to the Registrar the action taken by it thereon.

**76. Inspection by Registrar.**—The Registrar may, from time to time, inspect a registered society himself or cause it to be inspected by some person authorised by him in this behalf by general or special order.



**77. Inquiry by Registrar.**—(1) The Registrar may of his own motion by himself or by a person duly authorised by him in writing in this behalf hold an inquiry into the constitution, working and financial condition of a society.

(2) The Registrar shall hold such an inquiry as is contemplated in sub-section (1) of this section—

(a) on the requisition of a society, duly authorised by rules made in this behalf to make such requisition, in respect of one of its members, such member being itself a society;

(b) on the application of a majority of the committee of the society;

(c) on the application of one-third of the members of the society.

(3) All officers and members of the society whose affairs are investigated shall furnish such information in their possession in regard to the affairs of the society as the Registrar or the person authorised by the Registrar may require.

(4) The result of an inquiry under this section shall be communicated to the society whose affairs have been investigated.

**78. Cost of inspection or inquiry.**—(1) The Registrar may, after giving the parties an opportunity of being heard and by an order in writing stating the reasons therefor, apportion the cost of an inspection made under section 79 or of an inquiry held under section 77 or such portion of the costs as he thinks fit, between the co-operative society, the members thereof or the financing bank or the creditor or creditors applying for such inspection or inquiry, as the case may be, and the officers, former officers, members and past members of the society.

(2) No expenditure from the funds of any co-operative society shall be incurred for the purposes of defraying any costs in support of any appeal preferred by any person other than the society against an order under sub-section (1).

**79. Inspection of books of an indebted co-operative society.**—(1) Subject to the provisions of sub-section (2) on the application of a creditor of a co-operative society, an inspection shall be made of the books of the society by the Registrar or by a person authorised by him in this behalf by general or special order in writing.

(2) No such inspection shall be made unless—

- (a) the Registrar, after giving the society an opportunity of being heard, is satisfied that the alleged debt is a sum then due, and that the creditor has demanded payment thereof and has not received satisfaction within a reasonable time; and
- (b) the creditor deposits with the Registrar such sum as security for the costs of the inspection as the Registrar may direct it.

(3) The Registrar shall communicate the result of any inspection under this section to the creditor, to the society and to the financing bank, if any, of which the society is a member.

**80. Registrar to bring defects disclosed in inquiry or inspection to notice of society.**—(1) If the result of any inquiry held under section 77 or an inspection made under section 76 discloses any defects in the working of a society the Registrar may bring such defects to the notice of the society and if the society is a member of a federal society or financing institution, also to the notice of the federal society or the financing institution. The Registrar may also make an order directing the society or its officers or the federal society or the financing institution to take such action as may be specified in the order to remedy the defects within the time specified therein.

(2) The federal society or the financing institution or the society concerned may appeal against the order made by the Registrar under sub-section (1) to the State Government within the time specified in the order to remedy the defects within the time specified therein.

(3) The State Government may in deciding the appeal annul, reverse, modify or confirm the order of the Registrar.

**81. Power of Registrar to assess damages against delinquent promoters etc.**—(1) Where, in the course of an audit under section 71 or an inquiry under section 77 or an inspection under section 76 or the winding up of a society it appears that any person who has taken part in the organization or management of the society or any past or present chairman, secretary, member of its managing committee or officer of the society has misapplied or retained or become liable or accountable for any money or property of the society or has been guilty of misfeasance or breach of trust in relation to the society, the Registrar may on the application of the officer conducting the audit or holding the inquiry or inspection, or of the liquidator

or of any creditor or contributory, examine into the conduct of such person and after giving reasonable opportunity to the person concerned to submit his explanation, make an order requiring him to repay or restore the money or property or any part thereof respectively with interest at such rate as the Registrar thinks just or to contribute such sum to the assets of the society by way of compensation in regard to the misapplication, retention, misfeasance or breach of trust as the Registrar thinks just.

(2) This section shall apply notwithstanding that the act is one for which the offender may be criminally responsible.

## CHAPTER IX

### FARMING SOCIETIES

**82. Preliminary Procedure.**—(1) Persons interested in a farming scheme may make an application to the Registrar for the registration of a farming society. Such application shall be made in accordance with the provisions of section 8 and shall specify the area affected by the scheme. It shall be accompanied by—

- (a) a detailed description and estimate of the cost of such scheme;
- (b) the names of such of the owners of the lands to be included in the scheme as may have given their consent to the making of the scheme; and
- (c) such other particulars as may be prescribed by rules.

(2) The application together with its accompaniments shall be published in the village or villages and at the headquarters of the tehsil within the limits of which the lands proposed to be included in the scheme are situate.

(3) The State Government shall constitute a board consisting of the Registrar and the Director of Agriculture for the purposes of such societies. The application referred to in sub-section (2) shall be considered and decided by it. The board may appoint and get a report from an inquiry officer in respect of any matters arising for determination in this connection. If there is a difference of opinion between the members of the board regarding any question under the provisions of this chapter or the rules made in connection therewith, such question shall be referred to the State Government and shall be determined in accordance with the decision of the State Government.

**83. Board may sanction scheme with or without modification or may refuse to give sanction.**—(1) After such inquiries and as may be

prescribed the board may, in consultation with the Collector, after making such inquiry as it may think fit, either sanction with or without modification or refuse to give sanction to the scheme.

(2) Subject to the decision of appeal, if any, the scheme as sanctioned by the board, shall be published in the Official Gazette and in any other way which may be prescribed and shall, on such publication, be final.

84. Effect of scheme.—On a day on which the scheme as sanctioned is published under section 83, it shall come into force and all the owners of lands included therein, whether they are members of the farming society or not, shall have such rights and shall be subject to such liabilities as are conferred or imposed on them under the scheme.

85. Powers to enforce scheme. — On and after the day on which the scheme comes into force, the farming society concerned may, after giving the prescribed notice and in accordance with the provisions of the scheme, execute any work which it is the duty of any person to execute under the scheme. Any expense incurred by the society under this section may be recovered from the persons in default in the manner prescribed in section 101.

86. Contribution towards the costs of the scheme.—(1) The costs of the scheme shall be met wholly or in part by a contribution, to be determined by the society, from each owner of land effected by the scheme including the one who may have refused to become a member of the farming society in accordance with the decision of the board.

(2) The owner of the land affected by the scheme shall be primarily liable for the payment of the contribution leviable in respect of such land.

## CHAPTER X

### SETTLEMENT OF DISPUTES

87. Disputes to be referred to Registrar.—Any dispute touching the business of society (other than a dispute regarding disciplinary action taken by a society or its managing committee against a paid servant of the society) or of the liquidator of a society shall be referred to the Registrar if the parties thereto are among the following, namely:—

- (a) the society, its managing committee, any past or present officer, agent or servant or liquidator of the society; or
- (b) a member, past member or present claiming through a member, past member or deceased member of the society;

(c) a surety of a member, past member or deceased member of the society, whether such surety is or is not a member of the society; or

(d) any other society or the liquidator of such society.

**88. Settlement of Disputes.**—(1) On receipt of a reference under section 87, the Registrar shall, subject to the rules—

(a) decide the dispute himself; or

(b) refer it for disposal to one or more arbitrators to be appointed by the Registrar.

(2) Subject to the rules, the Registrar may withdraw any reference referred under sub-section (1) and may deal with it himself in the manner provided in such rules.

**89. Force and effect of certain awards.**—Where a dispute involves property pledged as collateral security, the person deciding the dispute may issue an award, which shall have the same force and effect as a final mortgage decree of a Civil Court having jurisdiction to make such a decree.

**90. Attachment before award.**—Where a dispute has been referred to the Registrar under section 87 or to arbitration under clause (b) of section 88, the Registrar or his nominee or the arbitrators, as the case may be, if satisfied on inquiry or otherwise, that a party to such arbitration with intent to delay or obstruct the execution of any award that may be made—

(a) is about to dispose of the whole or any part of his property, or

(b) is about to remove the whole or any part of his property from the jurisdiction of the Registrar,

may unless adequate security is furnished direct the conditional attachment of the said property, and such attachment shall have the same effect as if made by a competent Civil Court.

**91. Finality of order.**—The award of the arbitrators or a decision by the Registrar or his nominee under section 87 or 88 shall not be liable to be called in question in any civil or revenue court.

**92. Private transfers of property made after issue of certificate void against society.**—Any private transfer or delivery of, or encumbrance or charge on property made or created after the issue of the certificate of the Registrar or Liquidator, as the case may be, under

section 100 shall be null and void as against the society on whose application the said certificate was issued.

**93. Transfer of property which cannot be sold.**—(1) When in execution of an order sought to be executed under section 100 any property cannot be sold for want of buyers, if such property is in the occupancy of the defaulter or of some person on his behalf or of person claiming under a title created by the defaulter subsequently to the issue of the certificate of the Registrar or liquidator under section 100 or section 101 the Court or the Collector, as the case may be, may, with the previous consent of the Registrar, direct that the said property or any portion thereof shall be transferred to the society which has applied for the execution of the said order and that the said property or the portion shall be delivered to the society in the prescribed manner.

(2) Subject to such rules as may be made in this behalf and to any rights, encumbrances, charges or equities lawfully subsisting in favour of any other person, such property or portion thereof shall be held by the said society on such terms and conditions as may be agreed upon between the Court or the Collector, as the case may be, and the said society.

**94. Power of Registrar to sanction compromise between a society and its creditors.**—(1) Notwithstanding anything contained in this Act, where a compromise or arrangement is proposed between a society and its creditor or creditors or any class of them, the Registrar, upon an application made in the prescribed manner by the society or by any creditor or, in the case of a society in respect of which an order has been passed for the winding up thereof, by the liquidator, may order a meeting of the creditors or the class of creditors, as the case may be, to be called, held and conducted in such manner as may be prescribed.

(2) If a majority in number of the creditors, or the class of creditors, as the case may be, representing claims to three-fourths of the debts due by the society to the creditors or the class of creditors, present either in person or by proxy at the meeting agree to any compromise or arrangement, the compromise or arrangement shall, if sanctioned by the Registrar, upon publication in the prescribed manner, be binding on all the creditors or the class of creditors as the case may be, and also on the society or, in the case of a society in respect of which an order has been passed for the winding up thereof, on the liquidator and on all persons who have been or may be required by the liquidator under section 105 to contribute to the assets of the society.

## CHAPTER XI

## ENFORCEMENT OF OBLIGATIONS AND RECOVERIES

95. Access to documents, etc.—The Registrar and, subject to any restrictions prescribed an auditor, arbitrator or any person conducting an inspection or inquiry, shall at all reasonable times have free access to the books, accounts, documents, securities, cash and other properties belonging to or in the custody of a society.

96. Powers to enforce attendance.—Wherever in this Act it is provided that the Registrar or person duly authorized by general or special order in writing by the Registrar in this behalf shall hold an inquiry under section 77 or shall make an inspection under section 76 or shall wind up a society or shall arbitrate, such Registrar, or person authorized, as the case may be, shall have the power to summon and enforce the attendance of witnesses including the parties interested or any of them and to compel them to give evidence, and to compel the production of documents by the same means and as far as possible in the same manner as is provided in the case of a civil court by the Code of Civil Procedure, 1908.

97. Power to direct payment of dues.—Notwithstanding anything contained in chapter X, the Registrar or such other person as may be prescribed may, on his own motion or on the written requisition of a society or financing bank for the recovery of any loan due by a defaulting member, after due inquiry, make an award directing payment by such member of the amount found to be due.

98. Charge and surcharge.—(1) Where, as the result of an audit under section 71 or an inspection under section 76 or section 79, or any inquiry under section 77 or a report made in the course of the winding up of a society it appears to the Registrar that any past or present officer, has at any time after the commencement of this Act and within a period of four years prior to the date of such audit, inspection, inquiry or report, as the case may be—

- (a) intentionally made or authorized any payment which is contrary to the provisions of this Act or to the rules or by-laws; or
- (b) by reason of his culpable negligence in respect of any prescribed matter involved the society in any loss or deficiency; or
- (c) failed to bring into account any sum which ought to have been brought into account ; or



- (d) misappropriated or fraudulently retained any property of the society, the Registrar may inquire into the conduct of such officer.

(2) Upon such inquiry, after giving such officer an opportunity to be heard and, in the case of a payment made contrary to the provisions of this Act or the rule or by-laws, after affording such officer an opportunity to recover the amount of such payment from the payee and credit it to the funds of the society, the Registrar may, subject to the rules, by an order in writing require such officer to pay such sum to the assets of the society by way of compensation in respect of such payment or loss or sum, or to restore such property as the Registrar thinks fit, and to pay such sum as the Registrar may fix to meet the cost of the proceedings under this section.

(3) This section shall apply notwithstanding that such officer may by his act or omission have incurred criminal liability under this Act or any other law for the time being in force.

**99. Registrar's power to enforce performance of obligations.**—Notwithstanding anything contained in this Act, where any society is required to take any action under this Act, the rules or the by-laws and such action is not taken—

- (a) within the time provided in this Act, the rules or the by-laws; or
- (b) where no time is so provided within such time, having regard to the nature and extent of the action to be taken, as the Registrar may specify by a notice in writing;

the Registrar may call upon any officer of the society whom, in accordance with such principles as may be prescribed, he considers to be responsible for the carrying out of his directions and, after giving such officer an opportunity to be heard, may require him to pay to the assets of the society such sum not exceeding twenty-five rupees as the Registrar may think fit for each day until the Registrar's directions are carried out.

**100. Money how recovered.**—Every order passed by a liquidator under section 105 or by the Registrar under sub section (1) of section 81 or by the Registrar or his nominee or arbitrators on disputes referred to him or them under clause (b) of section 88 or under section 87 every order passed in appeal under section 113, every order passed in revision under section 114 and every order passed by the State Government in appeal against order passed under section 113 shall, if not carried out on a certificate signed by the Registrar or a liquidator, be deemed to be a decree of a Civil Court and shall be executed in the manner as provided in section 101.

**101. Recovery of sums due.**—Any sum payable to the State Government or to a society in accordance with any order, decision or award under this Act shall be recoverable in the manner provided in the First Schedule :

Provided that, notwithstanding anything contained in the Code of Civil Procedure, 1908, or in any other law for the time being in force, any sum payable in accordance with an award made under sections 88 and 97 in respect of default in the payment of a loan taken under section 54 or of any instalment of such loan, shall be recoverable—

- (a) if the salary of the member exceeds thirty rupees per mensem, by the attachment of such salary to the extent of the instalment in respect of which default has been made or half the difference between such salary and thirty rupees, whichever is less; and
- (b) if the salary of the member does not exceed thirty rupees per mensem, by the attachment of such salary to the extent of the instalment in respect of which default has been made or of one anna in every rupee of such salary, whichever is less.

**102. Acts of societies, etc. not to be invalidated by certain defects.**—(1) No act of a society or managing committee or of any officer or liquidator done in good faith in pursuance of the business of the society shall be deemed to be invalid by reason only of some defect subsequently discovered in the organisation of the society or in the constitution of the managing committee or in the appointment or election of the officer or liquidator or on the ground that such officer or liquidator was disqualified for his appointment.

(2) No act done in good faith by any person appointed under this Act shall be invalid merely by reason of the fact that his appointment has been cancelled by or in consequence of any order subsequently passed under this Act.

(3) The Registrar shall decide whether any act was done in good faith in pursuance of the business of a society.

## CHAPTER XII

### WINDING UP AND DISSOLUTION OF SOCIETY

**103. Order for the winding up of a co-operative society.**—(1) The Registrar may, and if the rules in any case so prescribe shall, by an order in writing, direct that a co-operative society shall be wound up if—

- (a) after an inspection has been made under section 76 or section 79 or an inquiry has been held under section 77 ; or

- (b) on an application made upon a resolution carried by three-fourths of the members of the society present at a special general meeting called for the purpose ; or
- (c) on his own motion in the case of a society which --
  - (i) has not commenced working ; or
  - (ii) has ceased working ; or
  - (iii) has share capital or member's deposits not exceeding five hundred rupees ; or
  - (iv) has ceased to comply with any condition as to registration in this Act or in the rules or by-laws,

he is of the opinion that the society ought to be wound up.

(2) A copy of such order shall be communicated, in the prescribed manner, to the society and to the financing bank, if any, of which the society is a member.

(3) the order shall take effect—

- (a) where no appeal is preferred under section 113, on the expiry of the time allowed for preferring an appeal ; or
- (b) where an appeal is preferred upon rejection of the appeal by the appellate authority.

**104. Appointment of a liquidator.**—When an order is passed under section 103 for the winding up of a society, the Registrar may, in accordance with the rules, appoint a person to be liquidator of the society and may remove such person and appoint another in his place.

**105. Powers of Liquidator.**—(1) Notwithstanding anything contained in section 103 relating to the date on which an order for winding up of a co-operative society shall take effect, a liquidator appointed under section 104 shall have power from the date of his appointment to take immediate possession of all assets, properties, effects and actionable claims of the society or to which the society is entitled and of all books, records and other documents pertaining to the business of the society.

(2) From the date on which the order directing the winding up of the society takes effect the liquidator shall, subject to the rules and under the general direction and control of the Registrar, have power, so far as is necessary for the winding up of the society on behalf of the society to carry on the business thereof and to do, all acts and execute all documents necessary to such winding up, and

in particular shall exercise such of the following powers as the Registrar may, from time to time, direct, namely—

- (a) to institute and defend suits and other legal proceedings ;
- (b) to make any compromise or arrangement with any person between whom and the society there exists any dispute and to refer any such dispute to arbitration ;
- (c) to determine the debts due to the society by a member, past member or the estate, nominees, heirs or legal representatives of a deceased member ;
- (d) to calculate the costs of liquidation and to determine by what person and in what proportions they are to be borne ;
- (e) to determine from time to time the contributions, including the items mentioned in clauses (c) and (d), to be made to the assets of the society by the members, past members, or estates, nominees, heirs and legal representatives of deceased members or by the past or present officers of the society ;
- (f) to investigate all claims against the society and subject to the provisions of this Act, to decide question of priority arising between claimants ;
- (g) to pay claims against the society (including interest upto the date of the order for the winding up thereof) according to their priority, in full or rateably as the assets of the society permit ;
- (h) to give such directions as appear to him to be necessary in regard to the realisation, collection and distribution of the assets of the society ; and
- (i) after consulting the members of the society, to dispose of the surplus, if any, remaining after paying the claims against the society.

**106. Priority of contributions assessed by liquidators.**—Notwithstanding anything contained in the Provincial Insolvency Act, 1920, the contribution assessed by a liquidator shall rank next to debts due to the Government or to any local authority in order of priority in insolvency proceedings.

**107. Liquidator to deposit the books and submit a final report.**—When the affairs of a society have been wound up, the liquidator shall deposit the records of the society in the prescribed manner and shall make a report to the Registrar.

**108. Power of Registrar to cancel order of winding up or of registration of a co-operative society.**—(1) The Registrar may cancel an order for the winding up of a society in any case where, in his opinion, the society should continue to exist.

(2) In any other case the Registrar shall, after considering the report of the liquidator, if any, order the registration of the society to be cancelled.

**109. Bar of suit in winding up and dissolution matters.**—Save in so far as it is expressly provided in this Act no civil court shall take cognizance of any matter connected with the winding up or dissolution of a society under this Act, and when a winding up order has been made no suit or other legal proceeding shall lie or be proceeded with against the society except by leave of the Registrar and subject to such terms as he may impose.

**110. Disposals of surplus assets.**—After all the liabilities including the paid up share capital of a cancelled society have been met, the surplus assets shall not be divided amongst its member but they shall be devoted to any object or objects described in the by-laws of the society and when no object is so described to any object of public utility determined by the general meeting of the society and in case of failure of the general meeting to determine the aforesaid object within the prescribed period they may be assigned by the Registrar either in whole or in part to any or all of the following—

- (a) an object of public utility of local interest ;
- (b) a charitable purpose as defined in section 2 of the Charitable Endowments Act, 1890;
- (c) Financing Bank until such time as a new society with similar object is registered in the same or neighbouring area when with the consent of the Registrar such surplus may be credited to the reserve fund of such new society.

## CHAPTER XIII

### JURISDICTION, APPEAL AND REVIEW

**111. Indemnity.**—No suit, prosecution or legal proceedings whatever shall lie against the Registrar or any person subordinate to him or acting on his authority or against a trustee in respect of anything in good faith done or purporting to be done under this Act.

**112. Bar to jurisdiction of courts.**—(1) Save as provided in this Act, no civil or revenue court shall have any jurisdiction in respect of—

- (a) the registration of a society or its by-laws or of an amendment of its by-laws ; or

- (b) the dissolution of a managing committee and the management of the society on dissolution thereof; or
- (c) any dispute required under section 87 to be preferred to the Registrar; or
- (d) any matter concerned with the winding up and dissolution of a society.

(2) While a society is being wound up no suit or other legal proceeding relating to the business of such society shall be proceeded with or instituted against the liquidator as such or against the society or any member thereof except by leave of the Registrar and subject to such terms as he may impose.

(3) Save as provided in this Act, no order, decision or award under this Act shall be liable to be challenged, set aside, modified, revised or declared void in any Court on any ground whatsoever except for want of jurisdiction.

**113. Appeal.**—(1) An appeal shall lie from an order shown in column 2 of the Second Schedule to the authority shown in column 3 and within the period shown in the column 4 thereof.

(2) Save as provided in this Act, no appeal shall lie against any order, decision or award passed in accordance with this Act, and every such order, decision or award shall be final.

**114. Review and Revision.**—(1) The State Government may call for and examine the record of any inquiry or inspection held or made under this Act or the proceedings of the Registrar or any person subordinate to him or acting on his authority, and may pass thereon such orders as it thinks fit.

(2) The Registrar may at any time—

- (a) revise any order passed by himself; or
- (b) call for and examine the record of any inquiry or inspection held or made under this Act or the proceedings of any person subordinate to him or acting on his authority, and if it appears to him that any decision, order or award or any proceedings so called for should for any reason be modified, annulled or reversed, may pass such orders thereon as he thinks fit :

Provided that, before any order is made under clause (a) or clause (b), the Registrar shall afford to any person likely to be affected adversely by such order, an opportunity of being heard.

## CHAPTER XIV

### OFFENCES, PENALTIES AND PROCEDURE

**115. Penalty for certain misdemeanours.**—When it appears to the Registrar that any person has contravened the provisions of this Act, the rules or by-laws—

- (a) by sitting or voting as a member of a managing committee or voting in the affairs of a society as a representative of another society which is a member of such society, or exercising the rights of a member of a society, when such person was not entitled so to sit or vote or exercise such rights, as the case may be ; or
- (b) by employing a loan for a purpose different from that for which it was granted ;

the Registrar may, subject to the rules and after affording such person an opportunity to be heard, by an order in writing direct him to pay to the assets of the society by way of penalty such sum as the Registrar thinks fit in respect of every such contravention.

**116. Offences and penalties.**—Any person mentioned in column 3 of the Third Schedule who is guilty of an offence shown in column 2 thereof shall, notwithstanding anything contained in this Act or any other law for the time being in force, be liable on conviction to the penalty shown in column 4 thereof.

**117. Cognizance of offences.**— (1) No court inferior to that of a Magistrate Ist Class shall try any offence under this Act.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, every offence under this Act shall, for the purposes of the said Code, be deemed to be non-cognizable.

(3) No prosecution under this Act shall be lodged without the previous sanction of the Registrar.

## CHAPTER XV

### RULES

**118. Power to make rules.**—(1) The State Government may, for the whole or any part of Himachal Pradesh, and for any society or class of societies, after previous publication, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters, namely :

- (i) the sums which, in addition to those referred to in clause (19) of section 2, shall be deducted from profits ;

- (ii) the period which shall be a co-operative years ;
- (iii) the exemption of any society or class of societies from, and the extent of application of any society or class of societies, or any of the provisions of this Act ;
- (iv) the extent and manner of delegation of powers and duties entrusted to the Registrar ;
- (v) the conditions for registration of any society or class of societies ;
- (vi) the maximum portion of the share capital of a society which may be held by a member under section 5 ;
- (vii) the forms to be used and the conditions to be complied within the making of an application for the registration of a society and the procedure in the matter of such application ;
- (viii) the procedure and conditions for the division of a society and amalgamation of societies ;
- (ix) the procedure for registering membership of the society and the extent to which a society may limit the number of its members ;
- (x) the matter in respect of which a society shall or may make by-laws, and the procedure and conditions for amending the by-laws ;
- (xi) the procedure and conditions for the exercise of powers by the financing bank ;
- (xii) the procedure for calling and holding general meetings, and the powers to be exercised by such meetings ;
- (xiii) the conditions in which a member of a society shall be disqualified from voting under sub-section (2) of section 17 ;
- (xiv) the conditions for the maximum holding of a member under section 18 ;
- (xv) the date for the closing of the annual accounts of a society ;
- (xvi) the method of constituting the managing committee of a society (including the appointment of persons to represent appropriate interests) ;
- (xvii) the qualifications, disqualifications, term of office, suspension and removal of members of managing committees and officers of different classes of societies ;



- (xviii) the procedure at meetings of the managing committee and the powers to be exercised and the duties to be performed by the managing committee and officers of a society ;
- (xix) the circumstances in which delegates may be elected for the purposes of section 24, the manner of electing delegates for any of the purposes of this Act and the manner in which delegates so elected shall vote ;
- (xx) the conditions of deputation of, and the powers to be exercised and duties to be performed by, a servant of the Government deputed under section 28 ;
- (xxi) the procedure and conditions for the suspension or super-session of the managing committee of the society and the method of appointment and qualifications of a person appointed under section 30 ;
- (xxii) the procedure for the registering the address of a society and any change of its address ;
- (xxiii) the number of paid staff to be employed by different classes of societies and the qualifications thereof ;
- (xxiv) the accounts, books and registers to be kept and the returns to be submitted by a society, the form in which and the persons by whom such accounts, books and registers shall be kept and such returns submitted, the method in which such accounts, books and registers shall be kept in custody and destroyed and the charges which may be assessed and levied for the preparation of any return not submitted in accordance with rules ;
- (xxv) the documents to be kept open to inspection by a society under section 34 ;
- (xxvi) the manner in which the balance sheet shall be published under section 35 ;
- (xxvii) the manner in which a society may invest or deposit its funds under section 37 ;
- (xxviii) the conditions in which and the extent to which the profits of a society may be distributed among its members under section 38 ;
- (xxix) the proportion which shall be annually carried under section 39 to the reserve fund from the net profits of a society, the extent to which a society may use its reserve

funds in its business and the method in which the reserve fund shall be invested;

- (xxx) the amount or proportion of contribution which a society may make to a provident fund under section 41 ;
- (xxxi) the manner in which society may be given an opportunity of being heard under sub-section (2) of section 42 ;
- (xxxii) the conditions in which and the extent to which loans may be made in relaxation of the provisions of sub-section (1) of section 42 and the determination by a society of a maximum and normal credits of its members ;
- (xxxiii) the co-operative purposes for which a society shall under section 46 contribute a percentage of its net profits, the extent of contribution which may be made under section 40 and the manner of making such contributions ;
- (xxxiv) the procedure and conditions for the issue, redemption, re-issue, transfer, replacement or conversion of debentures, issued by a society ;
- (xxxv) the conditions and terms under which, the manner in which and the extent to which funds may be raised by a society by means of shares, deposits, debentures or other and the manner in which provision shall be made for the maintenance of fluid resources ;
- (xxxvi) the procedure and conditions for varying an instrument of trust between trustee and a society ;
- (xxxvii) the payments to be made and the conditions to be complied with by members applying for loans from a society, the period for which loans may be made and the amount which may be lent to an individual member ;
- (xxxviii) the method of certification of any document under section 51, the procedure and conditions for obtaining copies of documents and the charges to be levied for the supply of certified or uncertified copies ;
- (xii) the procedure and conditions for, and the method of nomination by a member or transferee and the procedure and conditions for the substitution by a society under section 52 and 69 of another person for the nominee of a deceased member and for the decision by the society to proceed under section 52 and the procedure for calculating the value of the sums due to him for the purposes of sections 52, 68 and 69 ;

- (xl) the procedure whereby, and the conditions under which, guarantees or financial assistance may be given under section 55 or section 57 ;
- (xli) the maximum amount of principal, the rate of interest and other conditions for the guarantee of debentures under section 57 ;
- (xlii) the prohibitions and restrictions subject to which societies may transact business with persons who are not members ;
- (xliii) the procedure and conditions for change of the form of liability of a society ;
- (xliv) in any case in which a notice or process is issued under this Act or the rules—
  - (a) the form of the notice or process ;
  - (b) the period of notice to be given ;
  - (c) the persons on or against whom the notice or process shall be issued ; and
  - (d) the conditions to be fulfilled in order to establish proof of the service of such notice or process ;
- (xlv) the conditions in which any charge in favour of a society shall be satisfied and the extent to which and the order in which the property subject to the charge shall be used in its satisfaction ;
- (xlvi) the form of the written statement of claim required by section 62 ;
- (xlvii) the form of application under, the form of map and statement and the manner of publication required by, and the manner of levying water rate and embankment protection rate provided in sections 64 and 65 ;
- (xlviii) the circumstances and manner in which a member may resign or be expelled from a society ;
- (xlix) the procedure by which a society shall calculate and write off bad debt ;
- (L) the date by which the annual audit shall be made and an audit report submitted, the procedure of an auditor conducting an audit, the matters on which he shall submit a report, the form in which the statement of accounts shall be prepared for his audit, the limits within which he

may examine the monetary transactions of the society, the form of his audit report and statement of accounts audited and the charges, if any, to be paid by a society for audit;

- (LI) the specification of the scheme and appointment of an inquiry officer under the provision of section 82;
- (LII) the manner in which the inquiry shall be conducted and the contents of a report under section 83;
- (LIII) the contents of a notice and the execution of the scheme under the provision of section 85;
- (LIV) the qualifications of and method of appointing an arbitrator, the procedure to be followed in proceedings under chapter X and the method of calculating charges incidental to such proceedings and of enforcing decisions therein;
- (LV) the manner in which the surplus assets of a society which has been wound up shall be disposed of and its records shall be deposited;
- (LVI) the manner of effecting distraint and the procedure for the custody, preservation and sale of the property distrained (including such as is perishable) the investigation of claims of persons other than the defaulter to any right or interest in the distrained property and the postponement of sale pending such investigation;
- (LVII) the manner of recalling a loan not utilized for the purpose for which it was advanced;
- (LVIII) the conditions to be complied with by a person applying for admission or admitted as a member of a society, the procedure for the admission, expulsion and resignation of members and the conditions for the exercise by members of the rights of membership;
- (LIX) the cases in which and the conditions under which it shall be obligatory upon the Registrar to order the winding up of a society;
- (LX) in the case of appeals lying to the State Government, the authority to which the power of hearing appeals may be delegated;
- (LXI) the procedure and conditions of inspecting documents in the office of the Registrar and the charges, if any, to be levied for such inspection;

- (LXII) the procedure for and method of calculating any costs, charges or expenses required to be levied under this Act or the rules ;
- (LXIII) the procedure for and method of recovery of any sums due under this Act or the rules ;
- (LXIV) the method of communicating or publishing any order, decision or award required to be communicated or published under this Act or the rules ;
- (LXV) the procedure for the conditional attachment of property under section 90 ;
- (LXVI) the form of and procedure for an application under section 94 and the procedure for calling, holding, and conducting a meeting under that section ;
- (LXVII) the procedure and conditions for and the manner of the exercise of the powers conferred by sections 95 and 96 ;
- (LXVIII) the persons who may make awards under section 97 ;
- (LXIX) the procedure and principles for the conduct of any inquiry under section 98 and the matters referred to in clause (b) of sub-section (1) thereof ;
- (LXX) the procedure and principles for the exercise of the powers conferred by section 99 ;
- (LXXI) the procedure for the appointment and removal of, and for the payment of a remuneration to a liquidator, the condition of such appointment, the conditions in which the Registrar shall exercise control of a liquidator and direct him to exercise his powers under section 104 and the procedure to be followed in proceedings under chapter XII ;
- (LXXII) the exercise of the powers conferred by section 115 ;

(3) In making any rule under this Act, the State Government may direct that any person committing a breach thereof shall on conviction by a court be punishable with fine which may extend to fifty rupees and, where the breach is a continuing one, with further fine which may extend to ten rupees for every day after the first during which the breach continues subsequent to such conviction.

(4) All rules made under this Act, shall be laid before the Legislative Assembly as soon as may be after they are made.

## CHAPTER XVI

### MISCELLANEOUS

**119. Repeal.**—The Co-operative societies Act II (Central) of 1912 is hereby repealed in so far as it applies to the State of Himachal Pradesh.

**120. Saving of existing societies.**—(1) Every society now existing which has been registered under the Co-operative Credit Societies Act II of 1912, shall be deemed to be registered under this Act, and its by-laws shall, so far as the same are not inconsistent with the express provisions of this Act, continue in force until altered or rescinded.

(2) All appointments, rules and orders made, all notifications and notices issued, all transactions entered into and all suits and proceedings instituted under the Co-operative Societies Act, 1912 shall be deemed, so far as may be to have been made, issued, entered or instituted under this Act.

**121. Indian Companies Act, 1913 not to apply.**—The provisions of the Indian Companies Act, 1913 shall not apply to registered societies.

**122. Branches etc of societies outside the State.**—Every society registered outside Himachal Pradesh which has or establishes a branch or place of business in the Himachal Pradesh shall within six months from the commencement of this Act or from the establishment of such branch or place of business, file with the Registrar a certified copy of the by-laws and amendments and shall submit to the Registrar such returns and information as are submitted by similar societies in the Himachal Pradesh in addition to those submitted to the Registrar of the State where it is registered.

**123. Notice necessary in suits.**—No suit shall be instituted against a society or any of its officers in respect of any act touching the business of the society until the expiration of two months next after notice in writing has been delivered to the Registrar, or left at his office, stating the cause of action, the name, description and place of residence of the plaintiff and the relief which he claims and the plaint shall contain a statement that such notice has been as delivered or left.

# FIRST SCHEDULE

S. No.	Name of sum due	Method of recovery
1	Expenses incurred in writing up the accounts of a society under section 72 and sums awarded under section 99.	By the Collector as arrears of Land Revenue demand upon requisition by the Registrar or, in the case of section 72, with his approval by the auditor.
2	Cost of an inquiry or inspection apportioned under section 78, recovery of dues awarded under section 97; contributions by way of compensation awarded under section 99; and sums awarded under section 115.	By the Collector as arrears of Land Revenue demand upon requisition by the Registrar.
3	Sums awarded to a co-operative society by any order made under section 78 or by an award having the effect of a final mortgage decree under section 89.	By the Collector as arrears of Land Revenue upon requisition by the society. or By any Civil Court having local jurisdiction, in the same manner as a decree of such court, upon application by the society.
4	Sums assessed by a liquidator as contributions under section 105.	By the Collector as arrears of Land Revenue upon requisition by the Registrar or by the liquidator
5	Sums due under any rule made under this Act.	In the manner prescribed.

## SECOND SCHEDULE

Serial No.	Order appealable	By whom the appeal may be preferred; and authority to which appeal lies	Period of limitation
1	2	3	4
1	An order refusing to register a co-operative society under section 10 or an amendment of a by-law under section 12.	By any member of the society :— (a) if passed by the Registrar, to the State Government; or (b) if passed by any other person, to the Registrar.	Two months from the date on which the order is communicated to the society.
2	An order of disqualification under section 29 or an order under section 30 dissolving a managing committee and appointing a person to manage the affairs of a society.	By a member of the managing committee :— (a) if passed by the Registrar, to the State Government; or (b) if passed by any other person, to the Registrar.	Two months from the date on which the order is communicated to the society.
3	An entry in or omission from the map or the statement of irrigable area prepared under section 64 or of protected area prepared under section 65.	By any person aggrieved to the Collector.	Two months from the date of publication of the statement.
4	Assessment of water rate under section 64 or of embankment protection rate under section 65.	By any person aggrieved to the Registrar.	Two months from the date of publication of the statement.
5	An order under section 78 apportioning costs.	By any person aggrieved to the District Judge.	One month from the date on which the order was communicated to the person aggrieved.



SECOND SCHEDULE—*contd.*

1	2	3	4
6	Any order, decision or award of the Registrar or an arbitrator under section 88 or 89.	By any person aggrieved :— (a) if passed by the Registrar, to the State Government; or (b) if passed by any other person; to the Registrar.	One month from the date on which the order, decision or award was communicated to the person aggrieved.
7	An order passed under section 103 for the winding up of a society.	By any member of the society :— (a) if passed by the Registrar; to the State Government; or (b) if passed by any other person; to the Registrar.	Two months from the date on which the order was communicated to the society.
8	An order, decision or award of a liquidator under section 105.	By any person aggrieved to the Registrar	Two months from the date on which the order, decision or award was communicated to the person aggrieved.
9	An order passed under section 98 or section 99.	By any person aggrieved; to the District Judge.	Three months from the date on which the order was communicated to the person aggrieved.
10	Any order or decision declared by rules under this Act to be appealable.	By the person declared by the rules to be competent to appeal to the prescribed authority.	The period prescribed.

## THIRD SCHEDULE

Sl. No.	Offences	Person liable	Penalty
1	2	3	4
1	Unauthorised use of the word "co-operative" in any name or title under which business is carried on in contravention of section 7.	The company, society or person carrying on business under a name or title in which the word is thus used.	Fine which may extend to fifty rupees; and in the case of a continuing offence a further fine of five rupees for each day on which the offence is continued after conviction therefor.
2	Wilful neglect or refusal by any person to do any act, make any return or furnish any information required to be done, made or furnished under this Act or the rules.	The person neglecting or refusing to do the act, make the return or furnish the information.	Fine which may extend to fifty rupees; and in the case of continuing offence a further fine of five rupees for each day on which the offence is continued after conviction thereof.
3	Wilfully making a false return or furnishing false information required to be made or furnished under this Act or the rules.	The person wilfully making the false return or furnishing the false information.	Fine which may extend to one hundred rupees.
4	Removing or otherwise disposing of or suffering to be removed or otherwise disposed of any property on which a co-operative society holds a first charge under section 70 with intent to defraud the society or	The person by whom or on whose behalf the property is removed or disposed of or the act done.	Imprisonment which may extend to six months or fine which may extend to five hundred rupees.

THIRD SCHEDULE—*contd.*

1	2	3	4
	with such intent doing any other act to the prejudice of the society's first charge.		
5	Any act or omission declared by the rules to be an offence.	The person rendered liable by the rules.	Expulsion of the member of the society according to rules and the penalty provided therein.